**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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Date of Decision: 28.01.2020

1. CWP No.33742 of 2019

M/s Triveni Needles Pvt. Ltd.

Petitioner

Versus

Union of India and others

Respondents

2. CWP No.35001 of 2019

Dhruv Cables and Conductors

Petitioner

Versus

Union of India and others

Respondents

3. CWP No.35191 of 2019

M/s Nawanshahr Co-op Sugar Mills Ltd.

Petitioner

Versus

Union of India and others

Respondents

4. CWP No.37548 of 2019

M/s Avlight Automotives Pvt. Ltd.

Petitioner

Versus

Union of India and others

Respondents

5. CWP No.322 of 2020

M/s Dee Kay Engg. Works

Petitioner

Versus

Union of India and others

Respondents

6. CWP No.340 of 2020

M/s Dynamic Forge

Petitioner

Versus

Union of India and others

Respondents

7. CWP No.356 of 2020

M/s Sarvatra Industries

Petitioner

Versus

Union of India and others

Respondents

8. CWP No.444 of 2020

M/s Vee Gee Precision Forgings

Petitioner

Versus

Union of India and others

Respondents

9. CWP No.471 of 2020

M/s Radhey Iron & Cement Store

Petitioner

Versus

Union of India and others

Respondents

10. CWP No.488 of 2020

M/s Mechwell Foundry

Petitioner

Versus

Union of India and others

Respondents

11. CWP No.546 of 2020

M/s Amar Electronics

Petitioner

Versus

Union of India and others

Respondents

12. CWP No.204 of 2020

M/s Khalsa Motors

Petitioner

Versus

Union of India and others

Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.K. Babbar, Advocate and
Mr. Atul Babbar, Advocate
for the petitioner [in CWP No.33742 of 2019].

Mr. Jagdish Manchanda, Advocate with
Mr. Ravi Gakhar, Advocate
for the petitioner [in CWP No.35001 of 2019].

Mr. Varun Chadha, Advocate
for the petitioner [in CWP No.35191 of 2019,
CWP No.204 of 2020].

Mr. Rajiv Agnihotri, Advocate
for the petitioner [in CWP No.37548 of 2019,
CWP Nos.322, 340, 356, 444, 471 and 488 of 2020]

Mr. Sandeep Goyal, Advocate
for the petitioner [in CWP No.546 of 2020].

Mr. Abhinav Singh, Advocate for
Mr. Sourabh Goel, Advocate
for Union of India.

Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Anshuman Chopra, Advocate
for the respondent-CBEC [in CWP No.35001 of 2019 and CWP No.488 of 2020].

Mr. Tajender K. Joshi, Advocate
for the respondents [in CWP No.35191, CWP No.37548 of 2019, CWP Nos. 356 and 546 of 2020, .

Mr. Anshuman Chopra, Advocate
for the respondents
[in CWP No.35001 of 2019 and CWP No.322 of 2020].

Mr. Sharan Sethi, Sr. Standing Counsel
for the respondents
[in CWP Nos.340, 444 and 471 of 2020].

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AJAY TEWARI, J (Oral):

[1] These petitions have been filed with the prayer for issuance of writ in the nature of Certiorari declaring Rule 117 of CGST Rules 2017 and HGST Rules 2017 ultra vires the provision of Section 140 of CGST Act, 2017 and seeking directions to the respondents to open the portal for the petitioners to upload the form TRAN-01.

[2] On 16.01.2020, following order was passed:-

> *"At the very outset, counsel for the petitioner(s) state that they are not pressing the issue of the vires of the impugned Rule 117.*
>
> *The only issue which survives is*

> *whether the benefit of the judgment passed by this Court in Adfert Technologies Pvt. Ltd. vs. Union of India and others, 2019(11) TMI 282 – Punjab and Haryana High Court, decided on 04.11.2019 has to be extended to the petitioner(s).*
>
> *We put it to the counsel appearing for the Revenue that these cases are proliferating at an alarming rate and it would be appropriate if a one time decision is taken – rather than periodic decisions extending the time. For that purpose, we deem it appropriate to request Sh. Nimba Ram, Joint Commissioner, GST Policy Wing, CBIC and Sh. Anish Gupta, Officer on Special Duty-Legal, CBIC, Department of Revenue to appear in this Court on Wednesday i.e. 22.01.2020.*
>
> *Adjourned to 22.01.2020.*
>
> *Registry is directed to tag all these cases together and list the same at one Serial Number on the next date in motion hearing.*
>
> *Photocopy of this order be placed on files of the connected cases."*

[3] The only issue now surviving is with regard to directions to the respondents for reopening of portal to upload TRAN-01 form.

[4] On 16.01.2020, it was argued by learned counsel for the petitioner that matter is covered by judgment of this Court in CWP No.30949 of 2018 titled as ***Adfert Technologies Pvt. Ltd. Vs. Union of India and others*** reported as ***2019(11) TMI 282***.

[5] This Court held as under:-

> *". . . we direct Respondents to permit the Petitioners to file or revise where already filed*

> *incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 30th November 2019. The Respondents are at liberty to verify genuineness of claim of Petitioners but nobody shall be denied to carry forward legitimate claim of CENVAT / ITC on the ground of non-filing of TRAN-I by 27.12.2017.*

[6] In order to put an end to the litigation, it was deemed appropriate that it be put to the respondents that in view of the fact that some dealers have already got relief from this Court for filing TRAN-01, can the matter be resolved by taking decision by the respondents?

[7] Today, Mr. Nimba Ram, Joint Commissioner, GST Policy Wing, CBIC and Mr. Anish Gupta, Officer on Special Duty-Legal, CBIC, Department of Revenue have appeared in the Court and informed that decision in this regard can only be taken on the recommendation of GST Council and government is, otherwise, powerless to take any decision. It has also been informed that Special Leave Petition against the judgment of this Court in ***Adfert Technologies Pvt. Ltd.'s case (Supra)*** has yet not been filed.

[8] In the circumstances, we find no good reason to deny the benefit of judgment of ***Adfert Technologies's case (supra)*** to the petitioner.

[9] Consequently, the writ petitions are disposed of with the

permission to the petitioners to file TRAN-0I Return, either electronically or manually, by 31.01.2020.

[10] Since the petitions are disposed of, the pending application(s), if any, also stands disposed of.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

January 28, 2020
pankaj baweja

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No